

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

MANDEL MARTIN,

Plaintiff,

v.

UNITED STATES, et al.,

Defendants.

CIVIL ACTION NO. 3:11-CV-1556

(Judge Kosik)

**FILED
SCRANTON**

DEC 02 2011

PER 
DEPUTY CLERK

MEMORANDUM AND ORDER

AND NOW, THIS 2nd DAY OF DECEMBER, 2011, IT APPEARING TO

THE COURT THAT:

(1) Plaintiff, Mandel Martin, a prisoner formerly confined at USP- Lewisburg, Pennsylvania, filed the instant civil action pursuant to the Federal Tort Claims Act and Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971) on August 22, 2011;

(2) The action was assigned to Magistrate Judge J. Andrew Smyser for Report and Recommendation;

(3) On November 9, 2011, the Magistrate Judge issued a Report and Recommendation (Doc. 8) wherein he recommended that the plaintiff's complaint be dismissed;

(4) Specifically, the Magistrate Judge found that plaintiff's complaint failed to state a claim upon which relief could be granted and that plaintiff failed to file an amended complaint as directed (Doc. 7);

(5) Petitioner has failed to file timely objections to the Magistrate Judge's Report and Recommendation;

AND, IT FURTHER APPEARING THAT:

(6) If no objections are filed to a Magistrate Judge's Report and Recommendation, the plaintiff is not statutorily entitled to a de novo review of his

claims. 28 U.S.C.A. §636(b)(1)(C); Thomas v. Arn, 474 U.S. 140, 150-53 (1985).

Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a magistrate judge's report prior to adopting it. Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987);

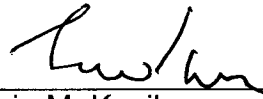
(7) We have considered the Magistrate Judge's Report and we concur with his recommendation;

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The Report and Recommendation of Magistrate Judge J. Andrew Smyser dated November 9, 2011 (Doc. 8) is **ADOPTED**;

(2) The plaintiff's complaint is **DISMISSED**; and

(3) The Clerk of Court is directed to **CLOSE** this case and to forward a copy of this Memorandum and Order to the Magistrate Judge.



Edwin M. Kosik

United States District Judge